



FREDERICK COUNTY PLANNING COMMISSION

June 9th, 2021

TITLE: **Liberty Corners – Dunkin Donuts**

FILE NUMBER: **SP89-07 AP SP260110, APFO A260071,
FRO F260093**

REQUEST: **Site Development Plan Approval**

The Applicant is requesting Site Development Plan approval to change the use of an existing bank to a proposed restaurant and office use located on a 0.73-acre Site.

PROJECT INFORMATION:

ADDRESS/LOCATION: 9138 Walnut Street, southeast of the intersection of Main Street and Walnut Street
TAX MAP/PARCEL: Tax Map 51, Parcel 166 & 167
COMP. PLAN: VC – Village Center
ZONING: VC – Village Center
PLANNING REGION: Walkersville
WATER/SEWER: W-5/S-1

APPLICANT/REPRESENTATIVES:

APPLICANT: B & R Design Group
OWNER: Shaffer Properties & Development LLC
ENGINEER: B & R Design Group
ARCHITECT: Not Listed
ATTORNEY: Not Listed

STAFF: Ashley M. Moore, Principal Planner

RECOMMENDATION: **Approval**

Enclosures:

Exhibit #1 – Site Plan Rendering
Exhibit #2 – APFO LOU

STAFF REPORT

ISSUE

Development Request

The Applicant is requesting Site Development Plan approval to change the existing bank to a proposed restaurant and office use located on a 0.73-acre Site. The proposed uses being reviewed are **“Restaurant” and “Business Office”** under the heading of **Commercial Business and Personal Services** per § 1-19-5.310 of the Zoning Ordinance. The proposed uses are principal permitted uses subject to Site Development Plan approval. The building will provide 2,088 sq. ft. of restaurant and 880 sq. ft. of business office in building #2 (9138 Walnut Street).

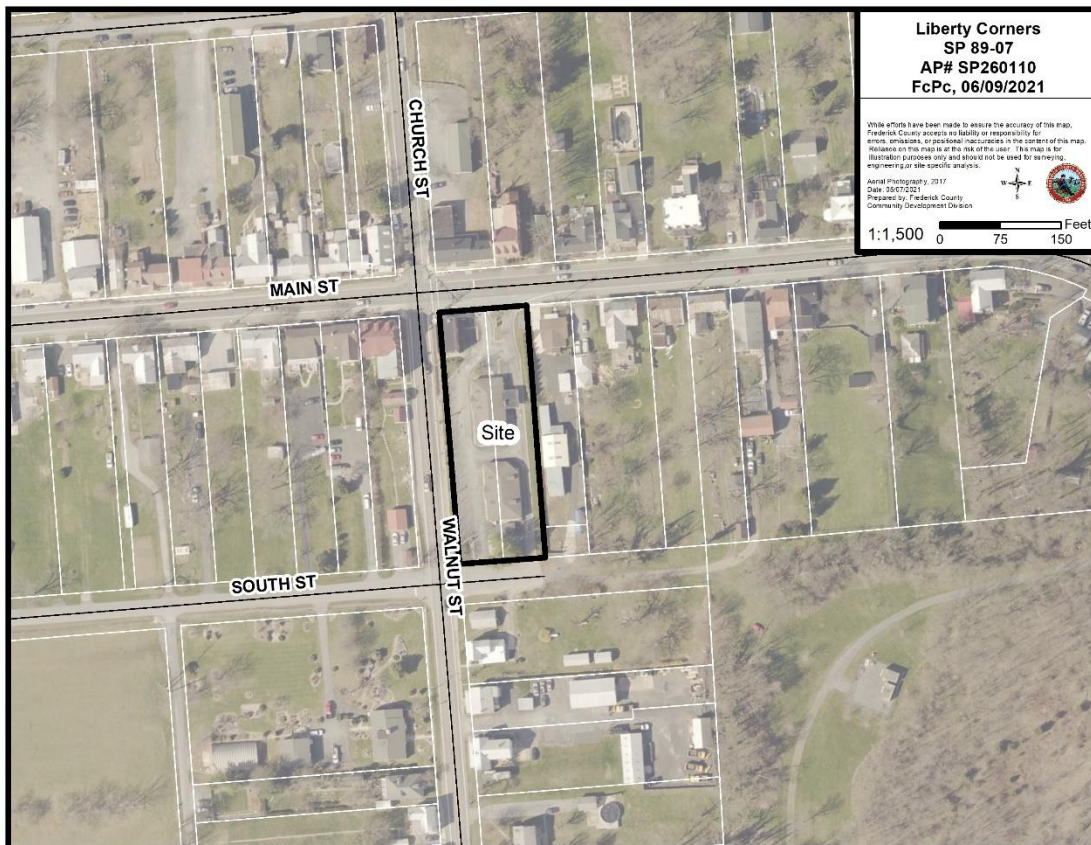
BACKGROUND

Development History

The Site was originally zoned B-1 Neighborhood Business District. In the 1977 zoning maps, the property was rezoned to VC, Village Center.

The Site has three existing structures; building #1 located at 12101 Main Street, building #2 located at 9134 Walnut Street, and building #3 located at 9138 Walnut Street. Historical aerial photos from 1973 show the property, when comprised of two separate lots, with a principal structure on each lot. On August 21, 1990, the Site received site development plan approval for a second bank in building #2 and an office use in building #3. Graphic #1 below.

Graphic #1: Aerial

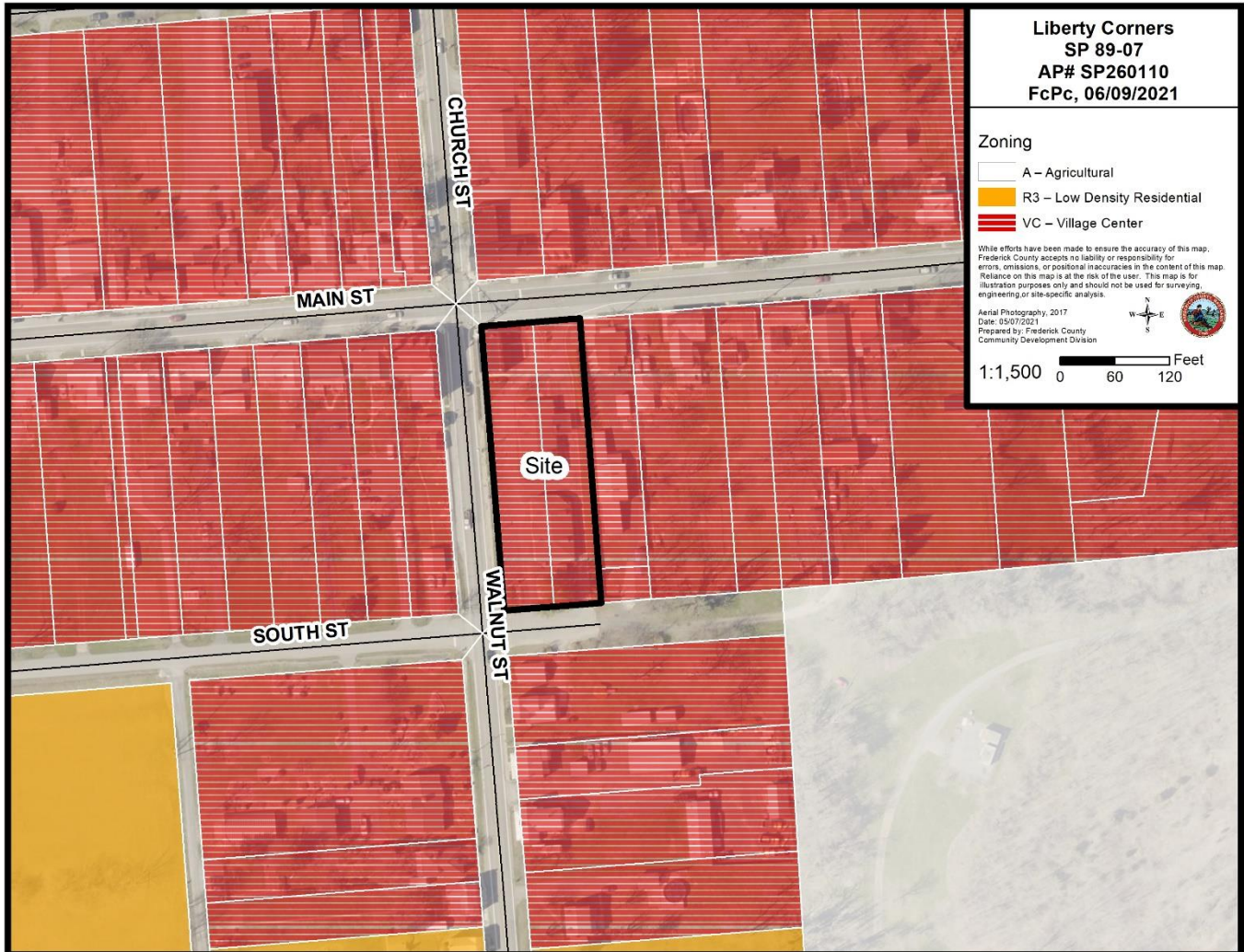


Existing Site Characteristics

The Site is currently occupied by three existing buildings and one-way driveway ingress and egress locations along Main Street and South Street.

The Site is zoned Village Center (VC) with a County Comprehensive Plan land use designation of Village Center. Surrounding land uses include: residential mixes (duplex and single family) to the north and west, single family residential south and east of the Site. All of the abutting and immediate nearby lots are zoned VC. See Graphic #2 below.

Graphic #2: Zoning



ANALYSIS

Detailed Analysis of Development Standards Findings and Conclusions

Design Standards §1-19-7.500(C)(1):

All new development within the Village Center Zoning District shall incorporate the following design standards in addition to all other applicable requirements of the Zoning Ordinance. New development will use existing development as a guide when determining site development, layout, bulk, and form of proposed structures within the Village Center District. New development should be designed and built to reflect existing neighborhood characteristics including shape, height, massing, roof shapes, and door and window placement and proportions.

Findings and Conclusions

Site Development and Layout §1-19-7.500 (C)(3):

There will not be any alterations to the building footprints and the existing infrastructure. The following is for your reference:

- Orientation – The buildings are existing and their principal faces orient toward the existing public streets. Building #1 has a chamfered entrance facing the Main Street and Walnut intersection. Building #2 and #3 have entrances facing Walnut Street. The garage and service doors are not oriented toward the public streets.
- Multi-story Buildings – All of the existing buildings are a single story.
- Parking – The majority of the existing parking area faces Walnut Street.
- Sidewalks – Sidewalks exist along Main Street and Walnut Street.
- Refuse and Recycling – The dumpster is screened by a proposed vinyl fence and is located at the side of Building #3 on the Site.

Building Massing and Bulk §1-19-7.500 (C)(4):

As stated above, no alterations to the building footprints or existing infrastructure will be made.

- Form – No alterations are proposed to the existing exterior of the buildings. The buildings as they exist fit in the fabric of Libertytown. Gable dormers, pediments, pilasters, brick facades, brick sills and lintels, hip roofs are architecture features commonly found in the community. Due to the location on a corner lot, the existing structure of building #2 and #3 are more rectangular with the widest elevation along Walnut Street.
- Building Footprint – The three existing buildings provide a range of 970 sq. ft. to 2,844 sq. ft., which meets the base footprint allowance in the VC District guidelines.
- Building Designs – There are no large expanses of undifferentiated facades or long plain walls.

Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of Chapter 1-19 (Zoning) of the Frederick County Code (the "Code").

Site Development §1-19-3.300.4 (A): *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

Findings/Conclusions

1. **Dimensional Requirements/Bulk Standards §1-19-6.100:** Dimensional standards for existing structures in VC District are as follows:

Front Yard: As Exists

Liberty Corners - Dunkin Donuts

June 9, 2021

Page 4 of 12

Side Yard: As Exists
Rear Yard: As Exists (N/A for a corner lot)
Height: As Exists

The existing building #2 has a height of approximately 22 ft. as measured by ordinance requirements is and one story.

2. **Signage §1-19-6.320:** The Site has four existing freestanding signs; two signs each designated for buildings #2 and #3 located along Main Street and South Street. The existing freestanding signs do not meet the requirements of the zoning ordinance. Therefore, the two existing freestanding signs along South Street will be removed. The two existing freestanding signs along Main Street will be consolidated into one freestanding sign for both buildings #2 and #3.

The signage for the Site is being reviewed comprehensively where the total amount of building frontage for all 3 buildings is 292 ft., where F is $(10)(\sqrt{292})$ or 170.9 ft. The existing building mounted signage for buildings #1 and #3 total 45.67 sq. ft. The proposed building signage for building #2 will total 73.4 sq. ft. The proposed freestanding signage for buildings #2 and #3 will total 49.91 sq. ft. (39.94 sq. ft. for building #2 and 9.97 sq. ft. for building #3) which will be located along Main Street.

3. **Landscaping §1-19-6.400:**

- **Street Trees §1-19-6.400(A):** The ordinance requires 1 street tree per 35 linear feet of road frontage, therefore requiring 3 street trees $(109 / 35 = 3.11)$ along Main Street, 9 street trees $(300 / 35 = 8.57)$ along Walnut Street, and 3 street trees along South Street $(109 / 35 = 3.11)$. Due to the existing Site restraints that include tree planting restrictions within the utility easements along Walnut Street, no street trees are being provided.
- **Land Use Buffering and Screening §1-19-6.400(B):** There is an existing fence and trees that currently screen the western portion of the Site from neighboring property.
- **Parking Area Buffering and Screening §1-19-6.400(C):** The parking area that is projected directly in front of building will be screened with shrubs.
- **Parking Area Landscaping §1-19-6.400(D):** The Applicant is required to provide 20% canopy over the parking area, or 2,000 sq. ft. Due to the existing Site restraints in the parking areas and restrictions on areas for new plantings, additional trees could not be provided to help the lot reach compliance. The existing trees provide 937 sq. ft. or 9.4% of tree canopy over the total parking area.
- **Landscaping, Screening, or Buffering §1-19-6.400(E):** All landscape material must be maintained in a living condition. The proposed Site plan emphasizes native species and no invasive/exotic species are specified.

4. **Lighting §1-19-6.500:** No new lighting is being proposed. There are existing building mounted and pole mounted fixtures located throughout the Site. The fixtures will continue to be cut-off, directed downward, and will not exceed 0.5 foot-candles at the property line.

Transportation and Parking §1-19-3.300.4 (B): *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing*

or planned transit facilities.

Findings/Conclusions

1. **Access/Circulation:** The existing driveways are being utilized. There is a one-way entrance and one-way exit along Main Street. From South Street, there is a one-way entrance and one-way exit. The circulation throughout the Site is predominately one-way traffic.
2. **Connectivity §1-19-6.220(F):** Sidewalks exist along the Main Street and Walnut Street property boundaries, which connect to the greater pedestrian connection within Libertytown.
3. **Public Transit:** This Site is not served by Transit.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** A commercial use is required to provide 1 space per 300 sq. ft. of Gross Floor Area (GFA), and a restaurant use is required to provide 1 space per 75 sq. ft. of area devoted to customer service (excluding food preparation and storage). Therefore 880 sq. ft. of commercial office use requires 3 spaces and 460 sq. ft. of restaurant use requires 6 spaces. A total of 9 spaces is needed for building #2. Buildings #1 and #3 will require 12 spaces. Overall, the Site will require 21 spaces and the total amount of parking provided is 21 spaces.

Loading Spaces

A commercial use between 1,000 – 5,000 sq. ft. requires 1 small loading spaces. The Applicant is utilizing one existing loading space.

5. **Pedestrian Circulation and Safety §1-19-6.220 (G):** There are existing pedestrian walkways between each building.
6. **Bicycle Parking §1-19-6.220 (H):** No bicycle racks are required and no racks are being proposed.

Public Utilities §1-19-3.300.4 (C): *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

Findings/Conclusions

Private Well and Septic: The Site is currently S-1/W-5 in the Water and Sewerage Plan and is and is served by public sewer and private well.

Natural features §1-19-3.300.4 (D): *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

Findings/Conclusions

1. **Topography:** The Site is built up, with the grade 3-5 feet higher than the sidewalk along Walnut

Liberty Corners - Dunkin Donuts

June 9, 2021

Page 6 of 12

Street. There is approximately 6 feet increase in elevation from South Street toward Main Street.

2. **Vegetation:** There is currently a row of existing cedar trees along the eastern boundary and a cluster of white pine trees toward the southern boundary (near South Street). Existing dogwood trees and existing ground cover vegetation are found in the planting area between the retaining wall and the parking lot.
3. **Sensitive Resources:** There are no sensitive slopes or habitats of threatened or endangered species on this Site.
4. **Natural Hazards:** There are no floodplains or wetlands indicated on the Site. The Site sits within an area where wet soils are found.

Common Areas §1-19-3.300.4 (E): *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

Findings/Conclusions

1. **Proposed Common Area:** There are multiple structures existing on the site. There are no proposed common public spaces due to the existing nature of the layout. However, the three buildings do share parking and utility facilities.
2. **Ownership:** The Site is privately owned.

Other Applicable Regulations

Stormwater Management – Chapter 1-15.2: There are no stormwater management requirements for the proposed change in use. There is no area of disturbance.

APFO – Chapter 1-20:

Schools: This project is non-residential and not subject to testing.

Water & Sewer: This Project is classified as W-5/S-1. While the public sewer and water facilities are currently adequate to serve the Project, the Developer recognizes that capacity is not guaranteed until purchased.

Road Improvements: This Project will generate 118 am and 69 pm new weekday peak hour trips, based on a Traffic Impact Analysis (TIA) developed by Traffic Concepts, Inc. dated March 2020 and amended on February 19, 2021. All traffic counts were collected prior to the COVID-19 pandemic.

All impacted study area intersections performed at an acceptable level of service, except the intersection of MD 26 and MD 550. This intersection operates at unacceptable levels during the PM peak hour of the existing, background, and future traffic conditions. The identified mitigation to achieve an adequate level of service is to install a traffic signal at this intersection. In accordance with Section 1-20-12(H) of the APFO, the Developer is required to pay its proportionate contributions toward road escrow accounts, at total of \$35,353, as noted in the attached Letter of Understanding (LOU).

Forest Resource – Chapter 1-21: This redevelopment is exempt from FRO per Section 1-21-7(N). The site contains no forest or specimen trees (trees 30” or greater in diameter).

Historic Preservation – Chapter 1-23: The property is part of the Libertytown Survey District in the Maryland Historical Trust, identified on the Maryland Inventory of Historic Properties as F-8-63. Buildings #2 and #3 are non-contributing resources to the historic district. Building #1 is a contributing resource to the historic district. Any exterior changes that are proposed in the future are recommended to be complimentary to the historic character of Libertytown. Historic Preservation staff has no objection to this project.

Summary of Agency Comment

Other Agency or Ordinance Requirements	Comment
Public Works Department	Approved
Development Review Planning:	Approved
Div. of Utilities and Solid Waste Mgmt. (DUSWM):	Approved
Health Department	Approved
Office of Life Safety	Approved
Development Review Transportation Engineering	Approved
Forest Conservation (FRO)	Approved
Adequate Public Facilities (APFO)	Approved
Street Name Review	Approved
State Highway	Approved
Historic Preservation	Approved

RECOMMENDATION

Staff has no objection to approval of the Liberty Corners - Dunkin Donuts Site Development Plan. If the Planning Commission approves the Site Development Plan, the Site plan is valid for a period of three (3) years from the date of Planning Commission approval (June 9, 2024).

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE** Site Development Plan SP-89-07, AP SP260110 (APFO A260071 FRO F260093) including APFO, as listed in the staff report for the proposed Site plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



FREDERICK COUNTY GOVERNMENT

DIVISION OF PLANNING AND PERMITTING
Department of Development Review and Planning

Jan H. Gardner
County Executive

Steve Horn, Division Director
Mike Wilkins, Director

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Liberty Corners

SP260110, A260071, F260093, File #SP89-07

In General: The following Letter of Understanding ("**Letter**") between the Frederick County Planning Commission ("**Commission**") and Shaffer Properties and Development, LLC ("**Developer**"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as shown on the proposed Liberty Corners site plan (the "**Project**"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("**APFO**").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 0.73+/- acre parcel of land, which is zoned VC (Village Center) and located in the southeast quadrant of the MD 75 /MD 26 intersection. This APFO approval will be effective for the conversion of a 2,968 SF drive-in bank to a 2,088 SF coffee/donut shop and 880 SF of office and the continued use as shown on the site development plan for the above-referenced Project, which was conditionally approved by the Commission on May 12, 2021.

Schools: Schools are not impacted because this is a commercial development

Water and Sewer: The site has water and sewer classifications W-5, S-1. Water will be provided by private well. While the public sewer facilities are currently adequate to serve the project, the Developer recognizes that capacity is not guaranteed until purchased. APFO approval for sewer does not guarantee that plats will be recorded or that building permits will be issued. Plat recordation and building permit issuance are subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

Road Improvements: The Project will generate 118 am and 69 pm new weekday peak hour trips, based on a Traffic Impact Analysis (TIA) developed by Traffic Concepts, Inc. dated March 2020

and amended on February 19, 2021. All traffic counts were collected prior to the COVID-19 pandemic.

All impacted study area intersections performed at an acceptable level of service, except the intersection of MD 26 and MD 550. This intersection operates at unacceptable levels during the PM peak hour of the existing, background, and future traffic conditions. The identified mitigation to achieve an adequate level of service is to install a traffic signal at this intersection. The Developer qualifies as a limited impact development per §1-20-12(G) of the County Code, and has chosen to provide a fair share contribution toward the signal construction per §1-20-12(A), as follows:

1. Escrow Account No. 4301 for a signal at the intersection of MD 26/MD 550. The estimated cost of the improvement is \$300,000. The Developer's proportionate share of this Road Improvement is 5.18%. Therefore, the Developer hereby agrees to pay \$15,540 to the escrow account for this Road Improvement.

In satisfaction of APFO requirements to provide fair share contributions to existing escrow accounts per §1-20-12(H), the Developer shall pay into County-held escrow accounts the following pro rata contributions:

2. Escrow Account No. 5084 for intersection safety improvements at MD 75/Jones Road. The estimated cost of the improvement is \$280,140. The Developer's proportionate share of this Road Improvement is 1.85%. Therefore, the Developer hereby agrees to pay \$5,183 to the escrow account for this Road Improvement.
3. Escrow Account No. 6222 sight distance improvements at the intersection of MD 26/South Street. The estimated cost of the improvement is \$511,515. The Developer's proportionate share of this Road Improvement is 2.86%. Therefore, the Developer hereby agrees to pay \$14,630 to the escrow account for this Road Improvement.


Therefore, prior to building permit issuance, the Developer hereby agrees to pay \$35,353 to the escrow accounts described above for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Period of Validity: The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on June 9, 2024

Disclaimer: This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures Next Page]

DEVELOPER: SHAFFER PROPERTIES AND DEVELOPMENT, LLC

By:  Date: 4/30/2021
Applicant

FREDERICK COUNTY PLANNING COMMISSION:

By: _____ Date: _____
Chair or Secretary

ATTEST:

By: _____ Date: _____
Gary Hessong, Director, Permits & Inspections

Planner's Initials / Date _____
(Approved for technical content)

County Attorney's Office Initials / Date _____
(Approved as to legal form)